

# Notice of Allowability

Application No.

09/723,505

Examiner

Ting Zhou

Applicant(s)

GARDNER ET AL.

Art Unit

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 24 August 2005.
2. ☒ The allowed claim(s) is/are 1-5, 7-14, 16-20, 27 and 29-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**CAO (KEVIN) NGUYEN**  
PRIMARY EXAMINER

### EXAMINER'S AMENDMENT

1. The amendment filed on 24 August 2005 have been received and entered. The applicant has cancelled claims 15, 21-26 and 28, and added new claims 35.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Frank Linguiti (Reg. No. 32,424) on 7 November 2005.

3. The application has been amended as follows:

4. Claim 16 is amended to read:

Claim 16. The method of claim 14 comprising the steps of:

(a) recording parameters representative of the performance of said additionally visually perceivable advertising message information to provide recorded performance parameters; and

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(b) altering said associations between said sub-areas and said respective additional visually perceivable advertising message information in accordance with said recorded performance parameters.

5. Cancel claim 35.

*Allowable Subject Matter*

6. Claims 1-5, 7-14, 16-20, 27 and 29-34 are allowed.

7. The following is an examiner's statement of reasons for allowance: The present invention teaches a method for creating and displaying advertising to a person accessing a banner website in the form of pop-up images. Each independent claim identifies the distinct features of the plurality of sub-areas of the banner area having respective additional visually perceivable advertising messages associated therewith in accordance with a first set of associations wherein the associations of the first set of associations are maintained constant during the banner display time; and altering the associations of the advertising messages with the banner sub-areas in accordance with the optimized parameter information to provide a second set of associations wherein the second set of associations is maintained constant during a further banner display time differing from the first banner display time, and providing a differing additional visually perceivable advertising message in response to a further positioning of the cursor on the selected sub-areas in accordance with the second set of associations. The closest prior art, Gilbert et al. U.S. Patent 6,370,537 (hereinafter "Gilbert") and Wei U.S. Patent 6,654,784 teach controlling a

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display using JavaScript to deliver information to a person accessing a banner website from a remote terminal. In the case of the Gilbert reference, Gilbert teaches a banner area having banner boundaries and including advertising information that is visually perceivable by a user and enabling the user to control the cursor to position the cursor on any one of sub-areas of the banner area, whereupon the person is automatically provided with respective additional visually perceivable advertising message information associated with the selected sub-area. In the case of the Wei reference, Wei teaches the use of JavaScript to control a display. The prior art fails to teach associating an image with an area of a banner and maintaining the association during the display of a serving of initial signals, i.e. the prior art fails to teach the associations to be maintained during a first serving, re-associated, and then maintained during a second serving of initial signals; the prior art also fails to teach optimizing parameters in accordance with an optimization criteria and re-associating images according to the optimized parameters. Thus, the prior art fails to anticipate or render the above limitations obvious.

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

### **Conclusion**


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058. The examiner can normally be reached on Monday - Friday 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TZ



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